

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11935DPW

---

SHEILA J. PORTER,	)
	)
Plaintiff,	)
	)
v.	)
	)
ANDREA CABRAL, SUFFOLK	)
COUNTY SHERIFF'S DEPARTMENT,	)
SUFFOLK COUNTY, and	)
CORRECTIONAL MEDICAL	)
SERVICES, INC.,	)
	)
Defendants.	)

---

**AFFIDAVIT OF ALEXANDRA B. HARVEY**

I, Alexandra B. Harvey, do hereby swear and depose that:

1. Prior to preparing and filing CMS' Motion for Summary Judgment with this Court, I had several conversations with plaintiff's counsel in which, pursuant to U.S.D.C. Local Rule 7.1(A)(2), I advised that we were planning on filing a motion for summary judgment as to all the claims in the plaintiff's complaint.
2. Just prior to starting the preparation of the motion, I had a telephone conversation with Attorney David Schumacher on August 1, 2005, whereby I informed him that we were planning on commencing the researching and writing of our motion for summary judgment as to *all* counts of the complaint against CMS. The purpose of the call was to advise him that if he was thinking about asking for an extension for the filing of summary judgment motions, he should request the extension well before CMS filed its motion for summary judgment. Attorney Schumacher did not indicate during this conversation that the plaintiff would be dismissing, or would consider dismissing, any of her claims against CMS.
3. On October 17, 2005, approximately two and one half months after this telephone conversation, CMS filed its Motion for Summary Judgment with the Court. Between August 1, 2005 and October 17, 2005, I never received any

communication from plaintiff's counsel notifying me that they were planning on dismissing the plaintiff's intentional infliction of emotional distress claim.

4. Based on my conversations with the plaintiff's counsel, we expended significant amounts of time and other resources preparing CMS' Motion for Summary Judgment as to *all* six counts of the plaintiff's complaint remaining against CMS.
5. From September 20, 2005 through September 22, 2005, the associate on this case spent 12.7 billable hours at a rate of \$130.00/hour specifically researching the law regarding intentional infliction of emotional distress claim and drafting the portion of CMS' Motion for Summary Judgment with respect to this claim. See relevant portions of bill attached hereto as Exhibit A.

Signed under the pains and penalties of perjury this 2nd day of December, 2005.

          /s/ Alexandra B. Harvey